

Thomas E Lauria
State Bar No. 11998025
WHITE & CASE LLP
Wachovia Financial Center
200 South Biscayne Blvd.
Miami, FL 33131
Telephone: (305) 371-2700
Facsimile: (305) 358-5744

Robin Phelan
State Bar No. 15903000
Judith Elkin
State Bar No. 06522200
HAYNES AND BOONE, LLP
901 Main Street
Suite 3100
Dallas, TX 75202
Telephone: (214) 651-5000
Facsimile: (214) 651-5940

PROPOSED ATTORNEYS FOR THE DEBTORS AND DEBTORS-IN-POSSESSION
**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

_____)	
In re	)	Chapter 11 Case
)	
MIRANT CORPORATION, <u>et al.</u>,	)	Case No. 03-46590 (DML)
	)	Jointly Administered
Debtors.)	
_____	)	Hearing Date and Time: To Be Set

**EMERGENCY MOTION OF THE DEBTORS PURSUANT TO SECTIONS 105(a), 362
AND 541 OF THE BANKRUPTCY CODE FOR INTERIM AND FINAL ORDER
ESTABLISHING PROCEDURES FOR (I) REQUIRING NOTICE IN ADVANCE OF
CERTAIN TRANSACTIONS REGARDING CLAIMS AGAINST AND EQUITY
INTERESTS IN MIRANT CORPORATION, AND (II) THE IMPOSITION OF
SANCTIONS FOR VIOLATING THE NOTIFICATION PROCEDURES**

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

Mirant Corporation (“Mirant”) and its affiliated debtors (collectively, the “Debtors”), as debtors-in-possession, file this motion (the “Motion”) for entry of emergency, interim and final orders pursuant to 11 U.S.C. §§ 105(a), 362 and 541 of title 11 of the United States Code (the “Bankruptcy Code”): establishing procedures for (i) providing advance notice of certain transactions involving claims against and equity interests in Mirant, and (ii) the

imposition of sanctions for non-compliance. In support of the Motion, the Debtors respectfully state as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

PROCEDURAL BACKGROUND

2. The Cases. Commencing on July 14, 2003 and concluding in the early morning hours of July 15, 2003, (the “Petition Date”), each of the Debtors filed a voluntary petition in this court for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1330, as amended (the “Bankruptcy Code”).¹ The Debtors continue to manage and operate their businesses as debtors-in-possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

3. The Cases are Jointly Administered. On July 15, 2003, this Court granted the Debtors’ motion for an order requesting that the Debtors’ bankruptcy estates be jointly administered.

4. The Creditors’ Committee. No creditors’ committee has yet been appointed in these cases by the United States Trustee. Further, no trustee or examiner has been requested or appointed in any of the Debtors’ chapter 11 cases.

¹ Concurrently, Mirant caused two of its Canadian subsidiaries, Mirant Canada Energy Marketing, Ltd and Mirant Canada Energy Marketing Investments, Inc. (collectively, the “Canadian Debtors”) to commence plenary insolvency proceedings (the “Canadian Proceedings”) in the Court of Queen’s Bench of Alberta Judicial District of Calgary (the “Canadian Court”) pursuant to the *Companies’ Creditors Arrangement Act* (the “CCAA”). The Canadian Debtors are subject to the sole and exclusive jurisdiction of the Canadian Court.

FACTUAL BACKGROUND:

The Debtors' Business Operations.

5. Mirant and its direct and indirect subsidiaries comprise one of the world's largest generators and marketers of electricity. Through its direct and indirect subsidiaries, Mirant produces, sells and delivers reliable energy products and services to utilities, municipal systems, aggregators, electric-cooperative utilities, producers, generators, marketers and large industrial customers in North America, the Philippines and the Caribbean. Mirant's core business centers on the production and sale of electricity and electrical capacity (essentially the ability to produce electricity on demand). Mirant currently owns or controls more than 21,800 megawatts of electric generating capacity around the world, of which more than 18,000 megawatts is located in the United States. In 2002, Mirant produced 73 million megawatt-hours of electricity, sold 312 million megawatt-hours of electricity and sold or marketed an aggregate average of 21 billion cubic feet per day of natural gas.

6. Mirant employs in excess of 7,000 employees worldwide, of which approximately 1,100 employees are based at Mirant's corporate headquarters in Atlanta and approximately 5,900 employees are based at operating facilities. In 2002, Mirant recorded a \$542 million loss in earnings before interest, taxes and depreciation ("EBITDA") on a consolidated basis. Its 2002 operating revenues were approximately \$6.4 billion.

Facts Relevant To The Motion: The Debtors' Net Operating Losses.

7. The Debtors have recently incurred, and are currently incurring, significant net operating losses ("NOLs"). The Debtors' NOLs stand at approximately \$1 billion and could reach \$2.5 billion through 2003. The NOLs are an extremely valuable asset of the Debtors' estates because under the Internal Revenue Code the Debtors can carry forward their NOLs to offset their future taxable income for up to twenty (20) taxable years, thereby reducing

their future aggregate tax obligation,² and freeing up funds to meet working capital requirements and service debt. As set forth in the Affidavit of Gary S. Lewbel, the Vice President-Tax of Mirant, dated July 21, 2003 (the “Lewbel Affidavit,” a true and correct copy of which is attached hereto as Exhibit A), various scenarios exist where the Debtors’ NOLs may be worth as much as \$200-400 million in potential future tax savings.³ As one bankruptcy court recognized, “[W]hat is certain is that the NOL has potential value, as yet undetermined, which will be a benefit to creditors and will assist [the debtors] in their reorganization process. This asset is entitled to protection while [the debtors] move forward toward their reorganization.” In re Phar-Mor, Inc., 152 B.R. 924, 927 (Bankr. N.D. Ohio 1993).

8. The ability of a company to use its NOLs and certain other tax attributes to reduce future taxes is subject to certain limitations contained in 26 U.S.C. § 382 (“Section 382”). As a general matter, if a corporation undergoes a change of ownership, Section 382 limits such corporation’s ability to use its NOLs and certain other tax attributes to offset future income. Under Section 382, a change of ownership occurs where the percentage of company’s equity held by one or more 5 percent shareholders increases by more than 50 percentage points over the lowest percentage of stock owned by such shareholders at any time during a three year rolling testing period.

9. The purpose of Section 382 is to prevent a company with taxable income from reducing its tax obligations simply by acquiring control of a company with built-in tax losses. To achieve this objective, Section 382 limits the amount of taxable income that can be

² See 26 U.S.C. § 172.

³ This projection is based upon a combined federal and state corporate income tax rate of 38%.

offset by a pre-change loss to the long-term tax exempt bond rate (as prescribed by the Treasury) as of the change-of-control date times the value of the stock of the loss corporation immediately before the ownership change. Built-in losses recognized during the five-year period after the change date are subject to similar annual limitations.

10. The limitation imposed by Section 382 in the context of a change of ownership pursuant to a confirmed chapter 11 plan is significantly more relaxed, particularly where the plan involves the retention or receipt of at least half of the stock of the reorganized company by shareholders and “qualified creditors.”⁴ A “qualified creditor” is a creditor who has held its claims against the debtor for more than 18 months before the petition date or who acquired such claims in the ordinary course of the debtor’s business and has held such claims since they arose.⁵

11. As stated in the Lewbel Affidavit, the Debtors’ chapter 11 plan of reorganization may involve the issuance of a substantial portion of Mirant’s common stock to creditors in satisfaction, either in whole or in part, of Mirant’s indebtedness. In such event, the ultimate recovery of Mirant’s stakeholders will be maximized if the Debtors can avail themselves of the relaxed NOL limitation standards afforded by Section 382 for changes in ownership under a confirmed chapter 11 plan. There is a danger, however, that if the relief requested herein is not granted and trades and transfers of Mirant stock and debt occur unmonitored, the potential value of the Debtors’ NOLs will be materially impaired. Simply put, if pre-emergence trading in claims and shares results in persons who are not “qualified creditors”

⁴ See 26 U.S.C. § 382(l)(5), (6).

⁵ See 26 U.S.C. § 382(l)(5)(E); Treas. Reg. § 1.382-9(d)

or historic stockholders receiving more than 50% of the equity in the reorganized Debtors, Section 382's more stringent restrictions on prospective NOL treatment may apply.

12. Accordingly, consistent with the automatic stay in these cases, the Debtors need to preserve the ability to block certain transfers before they occur, and monitor and possibly object to other changes in the ownership of stock and claims, to assure that (i) a 50% change of ownership does not occur prior to the effective date of the chapter 11 plan in these cases, and (ii) with respect to a change of ownership occurring under a chapter 11 plan, the Debtors have the opportunity to avail themselves of the more lenient standard provided by Section 382 with respect to chapter 11 plan ownership changes. Importantly, the Debtors are not requesting an injunction with respect to any potential transferor or transferee. Rather, the Debtors merely seek to establish notice procedures to facilitate the Debtors' monitoring of certain transfers and a procedure to impose sanctions upon parties that fail to properly observe and comply with such notice procedures.

RELIEF REQUESTED

A. The Court Should Approve Procedures Requiring Advance Notice to the Debtors of Sales, Transfers, and Exchanges of Claims and Stock.

13. By this Motion, the Debtors seek authorization pursuant to sections 105(a), 362 and 541 of the Bankruptcy Code to establish procedures pursuant to which (a) holders of (i) general unsecured claims, including claims incurred in the ordinary course of business, against the Debtors (including all debt securities issued by Mirant or its debtor subsidiaries), and all preferred securities issued by Mirant (which are treated for federal income tax purposes as indebtedness of the Debtors)(collectively, "Specified Claims"), and (ii) each class of common stock of Mirant (collectively, the "Specified Shares") shall be required to provide at least ten (10) days advance notice of their intent to buy or sell claims against or shares

in Mirant, (b) the Debtors shall provide notice of such notification requirements to all holders of Specified Claims and Specified Shares, and (c) sanctions may be imposed for violations of the notification requirements. Additionally, the Debtors seek authorization to notify all holders of Specified Claims and Specified Shares that interim and final hearings regarding the relief requested herein will be held on dates to be determined by this Court. A copy of the Debtors' proposed *ex parte* order is attached hereto as composite Exhibit B-1. A copy of the Debtors' proposed interim order is attached hereto as composite Exhibit B-2. A copy of the Debtors' proposed final order is attached hereto as Exhibit C.

14. By establishing procedures for monitoring transfers of Specified Claims and Specified Shares, the Debtors can preserve their ability to seek substantive relief at the appropriate time if it appears that such transfers may jeopardize their use of the NOLs. Accordingly, the Debtors seek approval of the following notification procedures and authorization to publish and serve the form of notice attached hereto as Exhibit D on all holders of Specified Claims and Specified Shares:

- (a) Specified Claims Holders. Any person or entity within the meaning of Section 382 ("Entity") that proposes to either (a) sell, transfer, exchange, or otherwise hypothecate its ownership⁶ of Specified Claims, or (b) purchase, acquire or otherwise obtain ownership of Specified Claims resulting in an Entity owning an aggregate amount of Specified Claims that equals or exceeds \$250 million (including principal and accrued interest as of the Petition Date and that Entity's prior ownership of Specified Claims) **must**, at least ten (10) days before any such transaction (the "Waiting Period"), file with this Court and serve on the Debtors and their

⁶ "Ownership" shall be determined in accordance with applicable rules under Section 382, and thus, shall include, but not limited to, direct and indirect ownership (e.g., a holding company would be considered to beneficially own all shares owned or acquired by its subsidiaries and Entities would be considered to beneficially own a ratable share of all interests owned by a pass-through entity), ownership by members of such person's family and persons acting in concert, and in certain cases, the creation or issuance of an option (in any form). Any variation of the term "ownerships" (e.g., own) shall have the same meaning.

attorneys a notice in the form attached hereto as Exhibit E (the “Proposed Transaction Notice”). The Debtors shall follow the procedures set forth in subsection (c) below with respect to any Proposed Transaction Notice received.

- (b) Specified Holders. Any Entity (i) who owns less than 4.75% of any class of Specified Shares who proposes to purchase, acquire, or otherwise obtain ownership of an amount of any class of Specified Shares which, when added to such Entity’s total ownership of such class of Specified Shares, if any, equals or exceeds 4.75% of such class of Specified Shares, or (ii) in the case of an Entity who owns at least 4.75% of any class of Specified Shares who proposes to purchase, acquire, or otherwise obtain ownership of any additional Specified Shares, must, at least ten (10) days before any such transaction, file with the Court and serve on the Debtors and their attorneys the Proposed Transaction Notice. The Debtors shall follow the procedures set forth in subsection (c) below with respect to any Proposed Transaction Notice.
- (c) Procedures Upon Receipt of a Proposed Transaction Notice. The Debtors shall have ten (10) days after receipt of a Proposed Transaction Notice to obtain injunctive relief prohibiting the transaction. If no order enjoining the transfer is entered within such ten (10) day period, then such transaction may proceed solely as set forth in the notice. Further transactions within the scope of this paragraph must be the subject of additional notices as set forth herein with an additional ten (10) day waiting period. If the Debtors voluntarily advise such Entity in writing prior to the 10th day that they do not object, the Entity may proceed with the transaction.
- (d) Notice of Ownership of Specified Claims. Each Entity that owns at least \$250 million (including principal and accrued interest as of the Petition Date) of Specified Claims, must, within fifteen (15) days of this Court’s entry of the Interim Order, file with this Court and serve on the Debtors and their attorneys a notice containing the ownership information substantially in the form attached hereto as Exhibit F.
- (e) The Debtors may waive, in writing, any and all restrictions, stays and notification procedures.

B. The Court Should Approve Procedures for the Imposition of Sanctions Against Any Entity Violating the Noticing Order.

15. While compliance with all orders of this Court should be expected, in the event of non-compliance, a fair and streamlined procedure for the imposition of sanctions should be provided. Such procedures will (a) provide appropriate remedial relief to the Debtors' estates, (b) incentivize Entities to comply with the emergency, Interim and Final Orders, and (c) conserve resources of the Court and the Debtors' estates by providing an efficient and effective procedure to resolve any violation.

16. The Debtors request that in the event any Entity fails to comply with Court orders implementing the relief requested herein (a "Non-Complying Entity"), the following sanctions procedures apply: (a) the Debtors shall deliver to the Non-Complying Entity a Notice of Non-Compliance in the form of Exhibit G attached hereto which shall set forth (among other things) the sanctions requested by the Debtors against the Non-Complying Entity, which may include monetary sanctions, or the reversal of the non-compliant transaction; (b) within five (5) days after service of the Notice of Non-Compliance, the Non-Complying Entity shall file with the Court and serve upon the Debtors a response (the "Response") to said notice, and obtain a hearing date so that the Notice of Non-Compliance and any Response is heard not later than ten (10) days after service of the Notice of Non-Compliance (the Response shall state the date and time of the hearing date obtained by the Non-Complying Entity); (c) (i) if a Response is timely filed and served, the Court may hear the matter within ten (10) days after service of the Notice of Non-Compliance, (ii) if a response is not timely filed and served as required, then the Court may enter an order granting the sanctions requested by the Debtors in the Notice of Non-Compliance.

APPLICABLE AUTHORITY

A. The Court Should Approve the Procedures Requiring Advanced Notice to Debtors of Sales, Transfers, and Exchanges of Specified Claims and Specified Shares.

17. Courts have uniformly held that a debtor's NOLs constitute property of the estate which are protected by section 362 of the Bankruptcy Code. The seminal case articulating this rule is In re Prudential Lines, Inc., 107 B.R. 832 (Bankr. S. D. N.Y. 1989), aff'd, 119 B.R. 430 (S.D.N.Y. 1990), aff'd, 928 F.2d 565 (2d Cir. 1991), cert. denied 502 U.S. 821 (1991). In Prudential Lines, the court affirmed the application of the automatic stay and enjoined a parent corporation from taking a worthless stock deduction with respect to its equity in a bankrupt wholly-owned subsidiary, on the grounds that allowing the parent to take such a deduction would adversely affect its debtor-subsidiary's NOLs. In issuing the injunction, the court held that the "debtor's potential ability to utilize NOLs is property of an estate" and that "the taking of a worthless stock deduction is an exercise of control over a debtor's NOLs" that was properly subject to the automatic stay. Prudential Lines, 107 B.R. 832, 838-42; see also In re Southeast Banking Corp., Case No. 91-14561-BKC-PGH (Bankr. S.D. Fla., July 21, 1994) (debtor's interest in its NOLs "constitutes property of the estate within the scope of [11 U.S.C. § 541(a)(1)] and is entitled to the protection of the automatic stay"); In re Phar-Mor, Inc., 152 B.R. 924, 926 (Bankr. N.D. Ohio 1993) ("the sale of stock is prohibited by § 362(a)(3) as exercise of control over the NOL, which is property of the estate"); In re Grossman's, Inc., Case No. 970-695 (PJW)(Bankr. D. Del. Oct. 9, 1997) (the debtors' net operating loss carryforward is property of the debtors' estates and is protected by the automatic stay).

18. Because the NOLs are property of the estates, this Court has authority to facilitate the Debtors' continued monitoring of the NOLs and (if necessary, and following

appropriate procedures) to enforce the automatic stay by restricting the transfer of the Specified Claims and Specified Shares which could reduce the value of the NOLs. As noted, Debtors are not requesting injunctive relief herein. The automatic stay already protects against the transfer of the NOLs. Rather, the Debtors are merely requesting that this Court establish notice procedures so the Debtors can closely monitor transfers which may negatively impact the NOLs and establish procedures for the imposition of sanctions for transferors and transferees that fail to comply with the notice procedures.

19. Section 362(a) operates as a stay of, among other things, “any act to obtain possession of property of the estate or of property from the estate or to exercise control over property of the estate.” 11 U.S.C. § 362(a)(3). Accordingly, “where a non-debtor’s action with respect to an interest that is intertwined with that of a bankruptcy debtor would have the legal effect of diminishing or eliminating property of the bankrupt estate, such action is barred by the automatic stay.” Prudential Lines, 928 F.2d at 574.

20. In Prudential Lines, the parent corporation’s interest in its worthless stock deduction was intertwined with the debtor’s NOL. According to the Second Circuit, if the parent was permitted to take a worthless stock deduction, it would have an adverse impact on the debtor-subsiary’s ability to carry forward its NOL. Therefore, “despite the fact that the [parent corporation’s] action is not directed specifically at [the debtor-subsiary], it is barred by the automatic stay as an attempt to exercise control over property of the estate.” Id.

21. In In re Phar-Mor, Inc., 152 B.R. 924 (Bankr. N.D. Ohio 1993), chapter 11 debtors moved to prohibit a transfer of the debtors’ stock that could have an adverse effect on the debtors’ ability to utilize NOL carryovers. The court held that the NOL qualified as property of the estate and issued an injunction enforcing the automatic stay. Significantly, the court granted

the relief requested even though the stockholders did not state any intent to sell their stock and even though the debtors did not show that a sale was pending which would trigger the prescribed change in ownership under Section 382. Id. at 927. Despite the “ethereal” nature of the situation, the court observed that “[w]hat is certain is that the NOL has potential value, as yet undetermined, which will be of benefit to creditors and will assist the Debtors in their reorganization process. This asset is entitled to protection while the Debtors move forward toward reorganization.” Id.

22. The court also concluded that because the debtors sought to enforce the stay, they did not have to meet the more stringent requirements for the granting of a preliminary injunction:

The requirement for enforcing an automatic stay under 11 U.S.C. § 362(a)(3) does not involve such factors as lack of an adequate remedy at law, or irreparable injury, or loss and a likelihood of success on the merits. The key elements for a stay . . . are the existence of property of the estate and the enjoining of all efforts by others to obtain possession or control of property of the estate.

Id. at 926 (quoting In re Golden Distributions, Inc., 122 B.R. 15, 19 (Bankr. S.D.N.Y. 1990)).

23. In short, numerous courts have held that the automatic stay enjoins actions under section 362(a)(3) which would adversely affect a debtor’s NOL carryforwards. In the Fifth Circuit, actions taken in violation of the stay are voidable. In re Jones, 63 F.3d 411 (5th Cir. 1995), *cert. denied*, (1996); Picco v. Global Marine Drilling Co., 900 F.2d 846, 850 (5th Cir. 1990).

a. *Propriety of Relief Requested*

24. Various courts have commonly granted relief that is similar to (and in many cases, more restrictive than) that requested herein. See, e.g., In re WorldCom, Inc., et al., Case No. 02-13533 (AJG) (Bankr. S.D.N.Y. March 4, 2003) (approving notification procedures and restrictions on certain transfer of claims against and interest in the debtors); In re U.S.

Airways Group, Inc., et al., Case No. 02-83984 (SSM) (Bankr. E. D. Va. Oct. 2, 2002) (debtor provided 10 days notice to object to proposed transfers of claims against the debtor that would increase the transferee's holdings to or above \$100 million in the aggregate face amount; \$100 million in claims was the lowest amount that could reasonably be expected to lead to a distribution of 5% of the stock in the reorganized debtor); In re Williams Comm. Group, Inc., Case No. 02-11957 (BRL) (Bankr. S.D.N.Y. July 24, 2002) (debtor provided 30 days notice to object to proposed transfers of claims against the debtor that would increase the transferee's holdings to or above \$200 million in the aggregate face amount; \$200 million in claims was the lowest amount that could reasonably be expected to lead to a distribution of 5% of the stock in the reorganized debtor); In re Metrocall, et al., Case No. 02-11579 (RB) (Bankr. D. Del. June 6, 2002) (debtor provided 5 business days notice to object to proposed transfers of stock that would result in the transferee holding 5% or more of the debtor's stock or a reduction in the ownership interest of an existing 5% or greater shareholder); In re Casual Male Corp., Case No. 01-41404 (REG) (Bankr. S.D.N.Y. May 18, 2001) (debtor provided 30 days notice to object to proposed transfers of senior subordinated notes or other general unsecured claims against the debtor); In re Worldtex, Inc., Case No. 01785 (MFW) (Bankr. D. Del. Apr. 2, 2001) (debtor provided 30 days notice to object to proposed transfers that would result in the transferee holding 5% or more of the debtor's common stock or decrease the ownership interest of an existing 5% or greater shareholder); In re Reliance Acceptance Group, Inc., Case No. 98-288 (PJW) (Bankr. D. Del. Apr. 28 1998) (debtor provided 30 days notice to object to proposed transfers that would result in the transferee holding 5% or more of debtor's common stock); In re First Merchants Acceptance Corp., 1998 Bankr. LEXIS 1816 (Bankr. D. Del. 1998) (debtor provided 30 days notice to object to proposed transfers of stock in the debtor that would increase the transferee's holdings to or

above 300,000 shares of the debtor's stock and to any proposed transfers of 1995 subordinated reset notes or general unsecured claims that would increase the transferee's holdings to or above an aggregate face amount of \$3,500,000); In re McLean Indus. Inc., Case Nos. 86-B-12238-12241 (Bankr. S.D.N.Y. Feb. 16, 1989) (requiring an application to the court for authority to transfer any claims); *see also*, In re Southeast Banking Corp., Case No. 91-14561-BKC-PGH (Bankr. S.D. Fla. July 21, 1994) (enjoining 5% trades of common stock in the debtor unless they obtained relief from the automatic stay);

25. Courts ordering such relief generally have done so by imposing notice and hearing requirements on any proposed transfer of claims or stock to or by a person whose holdings of such claims or stock exceed, as a result of the proposed transfer, a certain threshold amount. The order in First Merchants Acceptance, 1998 Bankr. LEXIS 1816 (Bankr. D. Del. 1998), was typical in this regard. There, the Court entered an order imposing on any party a duty to provide notice to the Court and to debtor's counsel if such party intended to (a) acquire, accumulate or sell more than a prescribed number of shares of the debtor, or to add additional shares to such a block, (b) acquire or sell any subordinated reset notes or unsecured claims against the debtors. The debtor then was afforded 30 days to object to such transaction, at which point a hearing would be held so that the court could decide whether to allow any such transfer to be consummated. *See also* In re Williams Comm. Group, Inc., Case No. 02-11957 (BRL) (Bankr. S.D.N.Y. July 24, 2002) (claims trading restrictions applied to certain claimholders); In re Worldtex, Inc., Case No. 01-785 (MFW) (Bankr. D. Del. Apr. 2, 2001) (stock trading restrictions applied to persons who were, or would become as a result of the transfer, 5% stockholders).

b. *The Relief Sought Is Narrow in Scope*

26. The requested relief has been narrowly tailored to permit certain claims and stock trading to continue, subject only to Fed. R. Bankr. P. 3001(e) and applicable securities, corporate and other laws. The Debtors are seeking to obtain notice of certain transaction in order to have a meaningful opportunity to seek further relief from the Court, if necessary. The procedures requested herein will facilitate the provisions of the automatic stay only with respect to certain types of claims and stock trading which pose a serious risk under Section 382's ownership change tests and to monitor other types of unsecured claims trading which potentially pose serious risk. Importantly, the relief sought herein will provide an opportunity to obtain further appropriate relief before irreversible harm to the NOLs can be done; once a transfer acts to limit the utilization of NOLs and certain other tax attributes under Section 382, the ability to maximize the benefit of the NOLs and certain other tax attributes may be lost forever.

27. Even if it is ultimately determined that the safe harbor of Section 382(1)(5) is unavailable to the Debtors, either because they elect not to accept its benefits or because its requirements are not satisfied, there is an additional reason why it is still in the best interests of the Debtors and their estates to restrict trading that could result in a change of ownership prior to plan confirmation. In order to obtain the favorable valuation rule of Section 382(1)(6), any ownership change must occur pursuant to a confirmed plan of reorganization. Specifically, Section 382(1)(6) provides that if a corporation experiences an ownership change pursuant to a chapter 11 plan of reorganization and Section 382(1)(5) does not apply, then the appropriate value of the Debtors for the purpose of calculating the limitation under Section 382 shall reflect the increase in value of the Debtors resulting from any surrender or cancellation of creditors' claims in the plan. Thus, assuming the value of the Debtors increases as result of the reorganization, then Section 382(1)(6) will provide for a higher annual limitation than would

otherwise result under Section 382. This may allow the Debtors to use an even greater portion of their NOLs and certain tax attributes to offset postpetition future income. Thus, it is in the best interests of the Debtors and their estates to grant the relief requested herein in order to prevent a change in ownership prior to the consummation of a plan of reorganization.

B. The Court Should Approve the Procedures for Imposition of Sanctions Against Any Person Violating the Noticing Order Approved by the Court.

28. It is well established that this Court has the authority to impose civil sanctions against any Entity found to have violated the procedures and orders of this Court. In re Terrebonne Fuel and Lube, Inc., 108 F.3d 609 (5th Cir. 1997).

29. The sanctions requested by the Debtors for violation of this Court's orders entered pursuant to the Motion may include (without limitation) monetary sanctions and a request to render the transaction null and void. In re Jones, 63 F.3d 411 (5th Cir. 1995), *cert. denied*, (1996); Picco v. Global Marine Drilling Co., 900 F.2d 846, 850 (5th Cir. 1990) ("It is well settled that 'actions taken in violation of the automatic stay are not *void*, but rather they are merely voidable, because the bankruptcy court has the power to annul the automatic stay pursuant to section 362(d)'" (citation omitted)).

30. The sanctions procedures requested herein are narrowly drawn and reasonable under the circumstances. If the Motion is granted, the Debtors will provide sufficient notice of the approved procedures to enable Entities to understand what is required of them and to act accordingly. Those who fail to act in accordance with this Court's orders should be required to explain their conduct and suffer appropriate sanctions.

NOTICE OF FINAL HEARING

31. Following entry of an emergency order granting the relief requested herein, the Debtors propose to send to (i) those persons required to receive notice under the

notice procedures order entered in these cases on July 15, 2003, and (ii) any indenture trustee(s) or transfer agent(s) for the Specified Claims and Specified Shares, as applicable, a notice in describing the authorization of the interim procedures. Upon receipt of such notice, any indenture trustees and transfer agents shall send such notice to all holders of the Specified Claims or Specified Shares, as applicable, registered with such indenture trustee or transfer agent. Any such registered holder shall, in turn, provide such notice to any holder for whose account such registered holder holds Specified Claims or Specified Shares, as applicable. Any such holder shall, in turn, provide such notice to any person or entity for whom such holder holds the Specified Claims or Specified Shares, as applicable.

32. Upon entry of the Interim Order, Debtors will follow a similar procedure outlined above and submit a notice to the parties listed in the previous paragraph in substantially the form attached hereto as Exhibit H.

33. Following entry of a final order granting the relief requested herein, the Debtors propose to send to (i) those persons required to receive notice under the notice procedures order entered in these cases on July 15, 2003; and (ii) any indenture trustee(s) or transfer agent(s) for the Specified Claims and Specified Shares, as applicable, a notice in substantially the form attached hereto as Exhibit D describing the authorization of final procedures. Upon receipt of such notice, any indenture trustees and transfers agents shall send such order to all holders of the Specified Claims or Specified Shares, as applicable, registered with such indenture trustee or transfer agent. Any such registered holder shall, in turn, provide such notice to any holder for whose account such registered holder holds such Specified Claims or Specified Shares, as applicable. Any such holders shall, in turn, provide such notice to any person entity for whom such holder holds the Specified Claims and Specified Shares, as

applicable. Additionally, the Debtors propose to publish notice in the Wall Street Journal and DNR.

EMERGENCY AND INTERIM APPROVAL SHOULD BE GRANTED

34. The Debtors' NOLs are valuable assets of their estates that will facilitate the Debtors' reorganization and benefit all of their stakeholders. If the Debtors are unable to monitor and preserve the meaningful ability to object to certain transfers that could negatively impact the NOLs, the Debtors' future use of their NOLs may be jeopardized. Furthermore, if the Debtors filed this Motion in accordance with the usual notice procedures, it is likely that a flurry of claims trading would likely immediately follow. Parties holding Specified Claims or Specified Shares may rush to transfer their claims before the Court considers and approves the requested noticing requirements before trading. Such claims trading would put the Debtors' NOLs and tax basis in jeopardy, as described above, and would thereby be counterproductive to the Debtors' objectives in seeking this relief. Accordingly, the Debtors request that the procedures described herein be immediately approved on an emergency, interim basis and that a hearing be scheduled for Wednesday, July 23, 2003 to determine whether the relief should continue on a interim basis until a final hearing granting such relief is scheduled.

35. The Debtors submit that granting the emergency, interim approval will benefit the Debtors and their estates by preventing the loss of their NOLs and tax basis pending determination of final approval of the requested procedures while allowing holders of Specified Claims and Specified Shares and other parties in interest ample time to object to the procedures should they so desire.

36. The Debtors have proposed notice and hearing procedures that impose minimal burdens on affected entities to achieve a substantial benefit to the Debtors' estates, and

the Debtors believe that granting the relief requested in this Motion is in the best interests of the Debtors' estates, their creditors and other parties in interest.

CONCLUSION

WHEREFORE, the Debtors respectfully request entry of orders, substantially in the form attached hereto as Exhibits B and C, implementing the Notice and Hearing Procedures set forth herein, and granting such other and further relief as is just and proper.

Dated: Fort Worth, Texas
July 21, 2003

HAYNES AND BOONE, LLP
901 Main Street
Suite 3100
Dallas, TX 75202
(214) 651-5000

By /s/ Robin E. Phelan

Robin Phelan
State Bar No. 15903000
Judith Elkin
State Bar No. 06522200
Ian Peck
State Bar No. 24013306

and-

Thomas E Lauria
State Bar No. 11998025
Craig H. Averch
State Bar No. 01451020
WHITE & CASE LLP
Wachovia Financial Center
200 South Biscayne Blvd.
Miami, Florida 33131
(305) 371-2700
**PROPOSED ATTORNEYS FOR THE DEBTORS
AND DEBTORS-IN-POSSESSION**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he has authorized BSI as service agent to cause to serve a true and correct copy of the foregoing Application and Affidavit upon all parties on the Limited Service List via United States first class mail, postage prepaid, on the 21st day of July, 2003 in accordance with the Federal Rules of Bankruptcy Procedure.

/s/ Robin E. Phelan

EXHIBIT A

2. As a result of past operating losses, through 2002, the Debtors' consolidated net operating loss ("NOLS") for federal income tax purposes stand at approximately \$1 billion and could reach \$2.5 billion through 2003. Based on current projections, the Debtors expect to have substantial income that may be offset by any NOL carryforwards surviving Mirant's reorganization in bankruptcy and amortization and depreciation deductions so as to reduce its future federal income tax liability. Various scenarios exist where the Debtors' NOLs may be worth as much as \$200 million and possibly as high as \$400 million based on a combined federal and state corporate income tax rate of 38%.

3. Under Section 382 of the Internal Revenue Code ("Section 382"), the ability of a company to use its NOLs and certain other tax attributes to reduce taxes is subject to certain limitations contained in Section 382. Debtors' ability to utilize their NOL carryforwards and certain other tax attributes would be restricted to at most approximately \$40 million per year (based on the Internal Revenue Code, and market value of all common stock and preferred stock of the Debtors, as of the date hereof) were they to undergo an ownership change within the meaning of that section prior to emergence from chapter 11. Thus, a significant asset of the Debtors may be lost if the Debtors' NOL carryforwards and certain other tax attributes were subject to limitation under Section 382 in advance of the effective date of a confirmed chapter 11 plan of reorganization for the Debtors.

4. In general, an ownership change of the Debtors would occur for purposes of Section 382 if and when there occurs a more than 50 percentage point change in the stock ownership of the Debtors (ignoring trading among less than 5% shareholders) measured over any three year period. I estimate that, as of the date these

cases were commenced, there has occurred changes in ownership for purposes of Section 382 of approximately 30%, within the prior three year period, and that percentage may have increased since then.

5. In connection with their reorganization efforts, it is likely that any realistic chapter 11 plan proposed by the Debtors may involve the issuance of a substantial portion of Mirant's common stock to certain creditors in satisfaction, either in whole or in part, of Mirant's indebtedness. It is therefore anticipated that the Debtors will undergo a prescribed ownership change for purposes of Section 382 upon emergence from chapter 11.

6. Accordingly, the ability of the Debtors to utilize their NOL carryforwards following their emergence from chapter 11 will depend, in significant part, on the Debtors' ability to take advantage of the special relief provisions in Section 382 of the Internal Revenue Code afforded to corporations in bankruptcy—in particular, the special relief afforded to a corporation whose shareholders and/or "qualified creditors" own at least 50% of the reorganized corporation's stock. Under this latter provision, the Debtors maybe able to utilize a substantial portion of their NOL carryforwards and certain other tax attributes following emergence from chapter 11 without the imposition of any annual limitation.

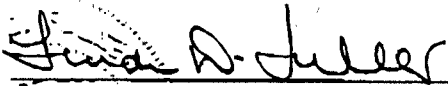
7. However, the Debtors' ability to qualify for this special relief may be seriously jeopardized (i) as a result of continued trading in, and accumulations of, claims against the Debtors prior to emergence from chapter 11, or (ii) in the event the Debtors were to undergo a prescribed 50% ownership change in its stock prior to emergence from chapter 11.

8. Accordingly, the Debtors need to obtain the relief requested in the Motion to monitor and possibly object to other changes in the ownership of stock and claims, to protect property of their estates and to avail themselves of the special relief provided by the Internal Revenue Code.



Gary S. Lewbel

Sworn to before me this 21st
day of July 2003



Notary Public

Notary Public, Cobb County, Georgia
My Commission Expires Sept. 2, 2005

EXHIBIT B-1

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

In re	)	Chapter 11 Case
MIRANT CORPORATION, <u>et al.</u>,	)	Case No. 03-46590(DML)11
Debtors.	)	Jointly Administered

**EMERGENCY ORDER PURSUANT TO SECTIONS 105(a), 362 AND 541
OF THE BANKRUPTCY CODE ESTABLISHING PROCEDURES FOR
(I) REQUIRING NOTICE IN ADVANCE OF CERTAIN TRANSACTIONS
REGARDING CLAIMS AGAINST AND EQUITY INTERESTS IN MIRANT
CORPORATION, AND (II) THE IMPOSITION OF SANCTIONS FOR VIOLATING
THE NOTIFICATION PROCEDURES**

Upon the motion dated July 21, 2003 (the "Motion") of Mirant Corporation and its affiliated debtors, as debtors-in-possession (collectively, the "Debtors"), for emergency, interim and final orders pursuant to 11 U.S.C. §§ 105(a), 362 and 541 of title 11 of the United States Code (the "Bankruptcy Code") establishing procedures for (i) providing advance notice of certain transactions involving claims against and equity interests in Mirant, and (ii) the imposition of sanctions for non-compliance; due and proper notice has been given; and upon due deliberation and sufficient cause appearing therefor, it is hereby

FOUND THAT:

A. The Debtors' consolidated net operating loss ("NOL") carryforwards and certain other tax attributes are property of the Debtors' estates and are protected by the automatic stay prescribed in section 362 of the Bankruptcy Code.

B. Unmonitored trading and accumulation of claims or shares by creditors in claims against, and stockholders in interests in, the Debtors prior to the Debtors' emergence from chapter 11 could severely limit the Debtors' ability to utilize their NOL carryforwards and certain other tax attributes for U.S. federal income tax purposes, as set forth in the Motion.

C. The procedures requested in the Motion to notify holders of claims against and interests in the Debtors that (i) certain notice procedures must be satisfied prior to the consummation of a sale or other transfer of certain claims against the Debtors and (ii) acquirers and transferors of claims against or interest in the Debtors that fail to comply with the notice procedures established by this Court may be subject to monetary sanctions and/or entry of an order rendering the non-complying transaction null and void, are necessary and proper in order to preserve the Debtors' NOL carryforwards and certain other tax attributes and are therefore in the best interests of the Debtors, their estates, and their creditors.

D. The relief requested in the Motion is authorized on an emergency interim basis under sections 105(a), 362 and 541 of the Bankruptcy Code.

THEREFORE, IT IS ORDERED THAT:

1. The Motion is granted on an interim, emergency basis until a final hearing can be held.

2. Until further order of this Court to the contrary, any sale or other transfer in violation of the procedures set forth in the Motion shall subject the acquirer and transferor to sanctions as set forth herein.

3. Until further order of this Court to the contrary, any sale or other transfer in violation of the procedures set forth in the Motion shall constitute an act in violation of the automatic stay prescribed in sections 362 and 105(a) of the Bankruptcy Code.

4. Specified Claims Holders. Any person or entity within the meaning of Section 382 (“Entity”) that proposes to either (a) sell, transfer, exchange, or otherwise hypothecate its ownership¹ of Specified Claims,² or (b) purchase, acquire or otherwise obtain ownership of Specified Claims resulting in an Entity owning an aggregate amount of Specified Claims that equals or exceeds \$250 million (including principal and accrued interest as of the Petition Date and that Entity’s prior ownership of Specified Claims) **must**, at least ten (10) days before any such transaction (the “Waiting Period”), file with this Court and serve on the Debtors and their attorneys a notice in the form attached to the Motion as Exhibit E (the “Proposed Transaction Notice”). The Debtors shall follow the procedures set forth below with respect to any Proposed Transaction Notice received.

¹ “Ownership” shall be determined in accordance with applicable rules under Section 382, and thus, shall include, but not limited to, direct and indirect ownership (e.g., a holding company would be considered to beneficially own all shares owned or acquired by its subsidiaries and Entities would be considered to beneficially own a ratable share of all interests owned by a pass-through entity), ownership by members of such person’s family and persons acting in concert, and in certain cases, the creation or issuance of an option (in any form). Any variation of the term “ownerships” (e.g., own) shall have the same meaning.

² “Specified Claims” means general unsecured claims, including claims incurred in the ordinary course of business, against the Debtors (including all debt securities issued by Mirant or its debtor subsidiaries), and all preferred securities issued by Mirant (which are treated for federal income tax purposes as indebtedness of the Debtors).

5. Specified Holders. Any Entity (i) who owns less than 4.75% of any class of Specified Shares³ who proposes to purchase, acquire, or otherwise obtain ownership of an amount of any class of Specified Shares which, when added to such Entity's total ownership of such class of Specified Shares, if any, equals or exceeds 4.75% of such class of Specified Shares, or (ii) in the case of an Entity who owns at least 4.75% of any class of Specified Shares who proposes to purchase, acquire, or otherwise obtain ownership of any additional Specified Shares, must, at least ten (10) days before any such transaction, file with the Court and serve on the Debtors and their attorneys the Proposed Transaction Notice. The Debtors shall follow the procedures set forth below with respect to any Proposed Transaction Notice.

6. Procedures Upon Receipt of a Proposed Transaction Notice. The Debtors shall have ten (10) days after receipt of a Proposed Transaction Notice to obtain injunctive relief prohibiting the transaction. If no order enjoining the transfer is entered within such ten (10) day period, then such transaction may proceed solely as set forth in the notice. Further transactions within the scope of this paragraph must be the subject of additional notices as set forth herein with an additional ten (10) day waiting period. If the Debtors voluntarily advise such Entity in writing prior to the 10th day that they do not object, the Entity may proceed with the transaction.

7. Notice of Ownership of Specified Claims. Each Entity that owns at least \$250 million (including principal and accrued interest as of the Petition Date) of Specified Claims, must, within fifteen (15) days of this Court's entry of the Interim Order, file with this Court and serve on the Debtors and their attorneys a notice containing the ownership information substantially in the form attached to the Motion as Exhibit F.

³ "Specified Shares" means each class of common stock of Mirant Corporation.

8. Procedures for Non-Compliance With Order. In the event any Entity fails to comply with Court orders implementing the relief requested herein (a “Non-Complying Entity”), the following sanctions procedures apply: (a) the Debtors shall deliver to the Non-Complying Entity a Notice of Non-Compliance in the form of Exhibit G attached to the Motion which shall set forth (among other things) the sanctions requested by the Debtors against the Non-Complying Entity, which may include monetary sanctions, or the reversal of the non-compliant transaction; (b) within five (5) days after service of the Notice of Non-Compliance, the Non-Complying Entity shall file with the Court and serve upon the Debtors a response (the “Response”) to said notice, and obtain a hearing date so that the Notice of Non-Compliance and any Response is heard not later than ten (10) days after service of the Notice of Non-Compliance (the Response shall state the date and time of the hearing date obtained by the Non-Complying Entity); (c) (i) if a Response is timely filed and served, the Court may hear the matter within ten (10) days after service of the Notice of Non-Compliance, (ii) if a response is not timely filed and served as required, then the Court may enter an order granting the sanctions requested by the Debtors in the Notice of Non-Compliance.

9. The Debtors may waive, in writing, any and all restrictions, stays and notification procedures.

10. The Debtors shall serve a notice of the entry of this Order, substantially in the form annexed to the Motion as Exhibit H (but revised to reflect the emergency nature of the relief) describing the authorized procedures on (i) Office of the United States Trustee for the Northern District of Texas, (ii) the holders of the fifty largest unsecured claims on a consolidated basis against the Debtors, (iii) any indenture trustee(s) or transfer agent(s) for the Specified Claims or Specified Shares, as applicable, and (iv) those persons who have formally appeared

and request service in these cases pursuant to Bankruptcy Rule 2002. Upon receipt of such notice, any indenture trustees and transfer agents shall send such order to all holders of the Specified Claims or Specified Shares, as applicable, registered with such indenture trustee or transfer agent. Any such registered holder shall, in turn, provide such notice to any holder for whose account such registered holder holds Specified Claims or Specified Shares, as applicable. Any such holder shall, in turn, provide such notice to any person or entity for whom such holder holds the Specified Claims or Specified Shares, as applicable.

11. The requirements set forth in this Order are in addition to the requirements of Rule 3001(e) of the Federal Rules of Bankruptcy Procedure and applicable securities, corporate, and other laws, and do not excuse compliance therewith.

12. The relief granted in this Order is intended solely to permit the Debtors to protect, preserve and maximize the value of their NOL carryforwards and certain other tax attributes. Accordingly, except to the extent this Order expressly conditions trading in claims against and interests in the Debtors, nothing in this Order or in the Motion shall or shall be deemed to prejudice, impair or otherwise alter or affect the rights of any holders of claims against or interests in the Debtors, including in connection with the treatment of any such claims or interests under any plan of reorganization. Moreover, promptly upon receiving the Ownership information to be provided by holders pursuant to this Order and from time to time following any updates thereto or other material change in underlying facts or circumstances, the Debtors shall use reasonable efforts to determine, in good faith, whether there exists a reasonable possibility that section 382(1)(5) of the Internal Revenue Code will be available in connection with the formulation and implementation of the Debtors' plan of reorganization, and upon a determination that no such reasonable possibility exists, the Debtors shall promptly inform this

Court of such determination, in which case the Court shall amend this Order to vacate the portions of this Order that require notice by certain holders of Specified Claims of intent to acquire Specified Securities.

13. An interim hearing on the Motion shall take place on _____ at _____.

Dated: _____, 2003

D. Michael Lynn,
United States Bankruptcy Judge

EXHIBIT B-2

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

In re	)	Chapter 11 Case
MIRANT CORPORATION, <u>et al.</u>,	)	Case No. 03-46590(DML)11
	)	Jointly Administered
Debtors.)	

**INTERIM ORDER PURSUANT TO SECTIONS 105(a), 362 AND 541
OF THE BANKRUPTCY CODE ESTABLISHING PROCEDURES FOR
(I) REQUIRING NOTICE IN ADVANCE OF CERTAIN TRANSACTIONS
REGARDING CLAIMS AGAINST AND EQUITY INTERESTS IN MIRANT
CORPORATION, AND (II) THE IMPOSITION OF SANCTIONS FOR VIOLATING
THE NOTIFICATION PROCEDURES**

Upon the motion dated July 21, 2003 (the "Motion") of Mirant Corporation and its affiliated debtors, as debtors-in-possession (collectively, the "Debtors"), for emergency, interim and final orders pursuant to 11 U.S.C. §§ 105(a), 362 and 541 of title 11 of the United States Code (the "Bankruptcy Code") establishing procedures for (i) providing advance notice of certain transactions involving claims against and equity interests in Mirant, and (ii) the imposition of sanctions for non-compliance; due and proper notice has been given; and upon due deliberation and sufficient cause appearing therefor, it is hereby

FOUND THAT:

A. The Debtors' consolidated net operating loss ("NOL") carryforwards and certain other tax attributes are property of the Debtors' estates and are protected by the automatic stay prescribed in section 362 of the Bankruptcy Code.

B. Unmonitored trading and accumulation of claims or shares by creditors in claims against, and stockholders in interests in, the Debtors prior to the Debtors' emergence from chapter 11 could severely limit the Debtors' ability to utilize their NOL carryforwards and certain other tax attributes for U.S. federal income tax purposes, as set forth in the Motion.

C. The procedures requested in the Motion to notify holders of claims against and interests in the Debtors that (i) certain notice procedures must be satisfied prior to the consummation of a sale or other transfer of certain claims against the Debtors and (ii) acquirers and transferors of claims against or interest in the Debtors that fail to comply with the notice procedures established by this Court may be subject to monetary sanctions and/or entry of an order rendering the non-complying transaction null and void, are necessary and proper in order to preserve the Debtors' NOL carryforwards and certain other tax attributes and are therefore in the best interests of the Debtors, their estates, and their creditors.

D. The relief requested in the Motion is authorized on an interim basis under sections 105(a), 362 and 541 of the Bankruptcy Code. This order shall supercede the emergency order entered by this Court relating to the Motion on July 21, 2003.

THEREFORE, IT IS ORDERED THAT:

1. The Motion is granted on an interim basis until a final hearing can be held.

2. Until further order of this Court to the contrary, any sale or other transfer in violation of the procedures set forth in the Motion shall subject the acquirer and transferor to sanctions as set forth herein.

3. Until further order of this Court to the contrary, any sale or other transfer in violation of the procedures set forth in the Motion shall constitute an act in violation of the automatic stay prescribed in sections 362 and 105(a) of the Bankruptcy Code.

4. Specified Claims Holders. Any person or entity within the meaning of Section 382 (“Entity”) that proposes to either (a) sell, transfer, exchange, or otherwise hypothecate its ownership¹ of Specified Claims,² or (b) purchase, acquire or otherwise obtain ownership of Specified Claims resulting in an Entity owning an aggregate amount of Specified Claims that equals or exceeds \$250 million (including principal and accrued interest as of the Petition Date and that Entity’s prior ownership of Specified Claims) **must**, at least ten (10) days before any such transaction (the “Waiting Period”), file with this Court and serve on the Debtors and their attorneys a notice in the form attached to the Motion as Exhibit E (the “Proposed Transaction Notice”). The Debtors shall follow the procedures set forth below with respect to any Proposed Transaction Notice received.

¹ “Ownership” shall be determined in accordance with applicable rules under Section 382, and thus, shall include, but not limited to, direct and indirect ownership (e.g., a holding company would be considered to beneficially own all shares owned or acquired by its subsidiaries and Entities would be considered to beneficially own a ratable share of all interests owned by a pass-through entity), ownership by members of such person’s family and persons acting in concert, and in certain cases, the creation or issuance of an option (in any form). Any variation of the term “ownerships” (e.g., own) shall have the same meaning.

² “Specified Claims” means general unsecured claims, including claims incurred in the ordinary course of business, against the Debtors (including all debt securities issued by Mirant or its debtor subsidiaries), and all preferred securities issued by Mirant (which are treated for federal income tax purposes as indebtedness of the Debtors).

5. Specified Holders. Any Entity (i) who owns less than 4.75% of any class of Specified Shares³ who proposes to purchase, acquire, or otherwise obtain ownership of an amount of any class of Specified Shares which, when added to such Entity's total ownership of such class of Specified Shares, if any, equals or exceeds 4.75% of such class of Specified Shares, or (ii) in the case of an Entity who owns at least 4.75% of any class of Specified Shares who proposes to purchase, acquire, or otherwise obtain ownership of any additional Specified Shares, must, at least ten (10) days before any such transaction, file with the Court and serve on the Debtors and their attorneys the Proposed Transaction Notice. The Debtors shall follow the procedures set forth below with respect to any Proposed Transaction Notice.

6. Procedures Upon Receipt of a Proposed Transaction Notice. The Debtors shall have ten (10) days after receipt of a Proposed Transaction Notice to obtain injunctive relief prohibiting the transaction. If no order enjoining the transfer is entered within such ten (10) day period, then such transaction may proceed solely as set forth in the notice. Further transactions within the scope of this paragraph must be the subject of additional notices as set forth herein with an additional ten (10) day waiting period. If the Debtors voluntarily advise such Entity in writing prior to the 10th day that they do not object, the Entity may proceed with the transaction.

7. Notice of Ownership of Specified Claims. Each Entity that owns at least \$250 million (including principal and accrued interest as of the Petition Date) of Specified Claims, must, within fifteen (15) days of this Court's entry of the Interim Order, file with this Court and serve on the Debtors and their attorneys a notice containing the ownership information substantially in the form attached to the Motion as Exhibit F.

³ "Specified Shares" means each class of common stock of Mirant Corporation.

8. Procedures for Non-Compliance With Order. In the event any Entity fails to comply with Court orders implementing the relief requested herein (a “Non-Complying Entity”), the following sanctions procedures apply: (a) the Debtors shall deliver to the Non-Complying Entity a Notice of Non-Compliance in the form of Exhibit G attached to the Motion which shall set forth (among other things) the sanctions requested by the Debtors against the Non-Complying Entity, which may include monetary sanctions, or the reversal of the non-compliant transaction; (b) within five (5) days after service of the Notice of Non-Compliance, the Non-Complying Entity shall file with the Court and serve upon the Debtors a response (the “Response”) to said notice, and obtain a hearing date so that the Notice of Non-Compliance and any Response is heard not later than ten (10) days after service of the Notice of Non-Compliance (the Response shall state the date and time of the hearing date obtained by the Non-Complying Entity); (c) (i) if a Response is timely filed and served, the Court may hear the matter within ten (10) days after service of the Notice of Non-Compliance, (ii) if a response is not timely filed and served as required, then the Court may enter an order granting the sanctions requested by the Debtors in the Notice of Non-Compliance.

9. The Debtors may waive, in writing, any and all restrictions, stays and notification procedures.

10. The Debtors shall serve a notice of the entry of this Order, substantially in the form annexed to the Motion as Exhibit H describing the authorized procedures on (i) Office of the United States Trustee for the Northern District of Texas, (ii) the holders of the fifty largest unsecured claims on a consolidated basis against the Debtors, (iii) any indenture trustee(s) or transfer agent(s) for the Specified Claims or Specified Shares, as applicable, and (iv) those persons who have formally appeared and request service in these cases pursuant to Bankruptcy

Rule 2002. Upon receipt of such notice, any indenture trustees and transfer agents shall send such order to all holders of the Specified Claims or Specified Shares, as applicable, registered with such indenture trustee or transfer agent. Any such registered holder shall, in turn, provide such notice to any holder for whose account such registered holder holds Specified Claims or Specified Shares, as applicable. Any such holder shall, in turn, provide such notice to any person or entity for whom such holder holds the Specified Claims or Specified Shares, as applicable.

11. The requirements set forth in this Order are in addition to the requirements of Rule 3001(e) of the Federal Rules of Bankruptcy Procedure and applicable securities, corporate, and other laws, and do not excuse compliance therewith.

12. The relief granted in this Order is intended solely to permit the Debtors to protect, preserve and maximize the value of their NOL carryforwards and certain other tax attributes. Accordingly, except to the extent this Order expressly conditions trading in claims against and interests in the Debtors, nothing in this Order or in the Motion shall or shall be deemed to prejudice, impair or otherwise alter or affect the rights of any holders of claims against or interests in the Debtors, including in connection with the treatment of any such claims or interests under any plan of reorganization. Moreover, promptly upon receiving the Ownership information to be provided by holders pursuant to this Order and from time to time following any updates thereto or other material change in underlying facts or circumstances, the Debtors shall use reasonable efforts to determine, in good faith, whether there exists a reasonable possibility that section 382(1)(5) of the Internal Revenue Code will be available in connection with the formulation and implementation of the Debtors' plan of reorganization, and upon a determination that no such reasonable possibility exists, the Debtors shall promptly inform this Court of such determination, in which case the Court shall amend this Order to vacate the

portions of this Order that require notice by certain holders of Specified Claims of intent to acquire Specified Securities.

13. A final hearing on the Motion shall take place on _____ at _____.

Dated: _____, 2003

D. Michael Lynn,
United States Bankruptcy Judge

EXHIBIT C

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

_____)	
In re	)	Chapter 11 Case
)	
MIRANT CORPORATION, <u>et al.</u>,	)	Case No. 03-46590(DML)11
	)	Jointly Administered
Debtors.)	
_____)	

**FINAL ORDER PURSUANT TO SECTIONS 105(a), 362 AND 541 OF THE
BANKRUPTCY CODE ESTABLISHING PROCEDURES FOR(I) REQUIRING NOTICE
IN ADVANCE OF CERTAIN TRANSACTIONS REGARDING CLAIMS
AGAINST AND EQUITY INTERESTS IN MIRANT CORPORATION, AND
(II) THE IMPOSITION OF SANCTIONS FOR VIOLATING
THE NOTIFICATION PROCEDURES**

Upon the motion dated July __, 2003 (the “Motion”) of Mirant Corporation and its affiliated debtors, as debtors-in-possession (collectively, the “Debtors”), pursuant to 11 U.S.C. §§ 105(a), 362 and 541 of title 11 of the United States Code (the “Bankruptcy Code”) establishing procedures for (i) providing advance notice of certain transactions involving claims against and equity interests in Mirant, and (ii) the imposition of sanctions for non-compliance, as more fully described in the Motion; and it appearing that this Court has jurisdiction over this

matter; and it appearing that due and proper notice has been given; and upon due deliberation and sufficient cause appearing therefor, it is hereby

FOUND THAT:

A. The Debtors' consolidated net operating loss ("NOL") carryforwards and certain other tax attributes are property of the Debtors' estates and are protected by the automatic stay prescribed in section 362 of the Bankruptcy Code.

B. Unmonitored trading and accumulation of claims or shares by creditors in claims against, and stockholders in interests in, the Debtors prior to the Debtors' emergence from chapter 11 could severely limit the Debtors' ability to utilize their NOL carryforwards and certain other tax attributes for U.S. federal income tax purposes, as set forth in the Motion.

C. The procedures requested in the Motion to notify holders of claims against and interests in the Debtors that (i) certain notice procedures must be satisfied prior to the consummation of a sale or other transfer of certain claims against the Debtors and (ii) acquirers and transferors of claims against or interest in the Debtors that fail to comply with the notice procedures established by this Court may be subject to monetary sanctions and/or entry of an order rendering the non-complying transaction null and void, are necessary and proper in order to preserve the Debtors' NOL carryforwards and certain other tax attributes and are therefore in the best interests of the Debtors, their estates, and their creditors.

D. The relief requested in the Motion is authorized on a final basis under sections 105(a), 362 and 541 of the Bankruptcy Code.

E. On _____, 2003, the Court signed an Interim Order with respect to the Motion ("Interim Order"). This Order will supersede the Interim Order.

THEREFORE, IT IS ORDERED THAT:

1. The Motion is granted on a final basis.
2. Until further order of this Court to the contrary, any sale or other transfer in violation of the procedures set forth in the Motion shall constitute an act in violation of the automatic stay prescribed in sections 362 and 105(a) of the Bankruptcy Code.
3. Specified Claims Holders. Any person or entity within the meaning of Section 382 (“Entity”) that proposes to either (a) sell, transfer, exchange, or otherwise hypothecate its ownership¹ of Specified Claims,² or (b) purchase, acquire or otherwise obtain ownership of Specified Claims resulting in an Entity owning an aggregate amount of Specified Claims that equals or exceeds \$250 million (including principal and accrued interest as of the Petition Date and that Entity’s prior ownership of Specified Claims) **must**, at least ten (10) days before any such transaction (the “Waiting Period”), file with this Court and serve on the Debtors and their attorneys a notice in the form attached to the Motion as Exhibit E (the “Proposed Transaction Notice”). The Debtors shall follow the procedures set forth below with respect to any Proposed Transaction Notice received.

¹ “Ownership” shall be determined in accordance with applicable rules under Section 382, and thus, shall include, but not limited to, direct and indirect ownership (e.g., a holding company would be considered to beneficially own all shares owned or acquired by its subsidiaries and Entities would be considered to beneficially own a ratable share of all interests owned by a pass-through entity), ownership by members of such person’s family and persons acting in concert, and in certain cases, the creation or issuance of an option (in any form). Any variation of the term “ownerships” (e.g., own) shall have the same meaning.

² “Specified Claims” means general unsecured claims, including claims incurred in the ordinary course of business, against the Debtors (including all debt securities issued by Mirant or its debtor subsidiaries), and all preferred securities issued by Mirant (which are treated for federal income tax purposes as indebtedness of the Debtors).

4. Specified Holders. Any Entity (i) who owns less than 4.75% of any class of Specified Shares³ who proposes to purchase, acquire, or otherwise obtain ownership of an amount of any class of Specified Shares which, when added to such Entity's total ownership of such class of Specified Shares, if any, equals or exceeds 4.75% of such class of Specified Shares, or (ii) in the case of an Entity who owns at least 4.75% of any class of Specified Shares who proposes to purchase, acquire, or otherwise obtain ownership of any additional Specified Shares, must, at least ten (10) days before any such transaction, file with the Court and serve on the Debtors and their attorneys the Proposed Transaction Notice. The Debtors shall follow the procedures set forth below with respect to any Proposed Transaction Notice.

5. Procedures Upon Receipt of a Proposed Transaction Notice. The Debtors shall have ten (10) days after receipt of a Proposed Transaction Notice to obtain injunctive relief prohibiting the transaction. If no order enjoining the transfer is entered within such ten (10) day period, then such transaction may proceed solely as set forth in the notice. Further transactions within the scope of this paragraph must be the subject of additional notices as set forth herein with an additional ten (10) day waiting period. If the Debtors voluntarily advise such Entity in writing prior to the 10th day that they do not object, the Entity may proceed with the transaction.

6. Notice of Ownership of Specified Claims. Each Entity that owns at least \$250 million (including principal and accrued interest as of the Petition Date) of Specified Claims, must, within fifteen (15) days of this Court's entry of the Interim Order, file with this Court and serve on the Debtors and their attorneys a notice containing the ownership information substantially in the form attached to the Motion as Exhibit F.

³ "Specified Shares" means each class of common stock of Mirant Corporation.

7. Procedures for Non-Compliance With Order. In the event any Entity fails to comply with Court orders implementing the relief requested herein (a “Non-Complying Entity”), the following sanctions procedures apply: (a) the Debtors shall deliver to the Non-Complying Entity a Notice of Non-Compliance in the form of Exhibit G attached to the Motion which shall set forth (among other things) the sanctions requested by the Debtors against the Non-Complying Entity, which may include monetary sanctions, or the reversal of the non-compliant transaction; (b) within five (5) days after service of the Notice of Non-Compliance, the Non-Complying Entity shall file with the Court and serve upon the Debtors a response (the “Response”) to said notice, and obtain a hearing date so that the Notice of Non-Compliance and any Response is heard not later than ten (10) days after service of the Notice of Non-Compliance (the Response shall state the date and time of the hearing date obtained by the Non-Complying Entity); (c) (i) if a Response is timely filed and served, the Court may hear the matter within ten (10) days after service of the Notice of Non-Compliance, (ii) if a response is not timely filed and served as required, then the Court may enter an order granting the sanctions requested by the Debtors in the Notice of Non-Compliance.

8. The Debtors may waive, in writing, any and all restrictions, stays and notification procedures.

9. The Debtors shall serve a notice of the entry of this Order, substantially in the form annexed to the Motion as Exhibit D describing the authorized procedures on (i) Office of the United States Trustee for the Northern District of Texas, (ii) the holders of the fifty largest unsecured claims on a consolidated basis against the Debtors, (iii) any indenture trustee(s) or transfer agent(s) for the Specified Claims or Specified Shares, as applicable, and (iv) those persons who have formally appeared and request service in these cases pursuant to Bankruptcy

Rule 2002. Upon receipt of such notice, any indenture trustees and transfer agents shall send such order to all holders of the Specified Claims or Specified Shares, as applicable, registered with such indenture trustee or transfer agent. Any such registered holder shall, in turn, provide such notice to any holder for whose account such registered holder holds Specified Claims or Specified Shares, as applicable. Any such holder shall, in turn, provide such notice to any person or entity for whom such holder holds the Specified Claims or Specified Shares, as applicable.

10. The requirements set forth in this Order are in addition to the requirements of Rule 3001(e) of the Federal Rules of Bankruptcy Procedure and applicable securities, corporate, and other laws, and do not excuse compliance therewith.

11. The relief granted in this Order is intended solely to permit the Debtors to protect, preserve and maximize the value of their NOL carryforwards and certain other tax attributes. Accordingly, except to the extent this Order expressly conditions trading in claims against and interests in the Debtors, nothing in this Order or in the Motion shall or shall be deemed to prejudice, impair or otherwise alter or affect the rights of any holders of claims against or interests in the Debtors, including in connection with the treatment of any such claims or interests under any plan of reorganization. Moreover, promptly upon receiving the ownership information to be provided by holders pursuant to this Order and from time to time following any updates thereto or other material change in underlying facts or circumstances, the Debtors shall use reasonable efforts to determine, in good faith, whether there exists a reasonable possibility that section 382(1)(5) of the Internal Revenue Code will be available in connection with the formulation and implementation of the Debtors' plan of reorganization, and upon a determination that no such reasonable possibility exists, the Debtors shall promptly inform this Court of such determination, in which case the Court shall amend this Order to vacate the

portions of this Order that require notice by certain holders of Specified Claims of intent to acquire Specified Shares.

Dated: _____, 2003

D. Michael Lynn,
United States Bankruptcy Judge

EXHIBIT D

Thomas E Lauria
State Bar No. 11998025
WHITE & CASE LLP
Wachovia Financial Center
200 South Biscayne Blvd.
Miami, FL 33131
Telephone: (305) 371-2700
Facsimile: (305) 358-5744

Robin Phelan
State Bar No. 15903000
Judith Elkin
State Bar No. 06522200
HAYNES AND BOONE, LLP
901 Main Street
Suite 3100
Dallas, TX 75202
Telephone: (214) 651-5000
Facsimile: (214) 651-5940

PROPOSED ATTORNEYS FOR THE DEBTORS AND DEBTORS-IN-POSSESSION

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

_____)	
In re	)	Chapter 11 Case
)	
MIRANT CORPORATION, <u>et al.</u>,	)	Case No. 03-46590 (DML)
	)	Jointly Administered
Debtors.)	
_____	)	Hearing Date and Time: To Be Set

**NOTICE OF FINAL ORDER ESTABLISHING PROCEDURES FOR
(I) REQUIRING NOTICE IN ADVANCE OF CERTAIN TRANSACTIONS
REGARDING CLAIMS AGAINST AND EQUITY INTERESTS IN MIRANT
CORPORATION, AND (II) THE IMPOSITION OF SANCTIONS FOR
VIOLATING THE NOTIFICATION PROCEDURES**

TO ALL PERSONS OR ENTITIES WITH CLAIMS AGAINST OR INTERESTS IN ANY OF THE DEBTOR ENTITIES LISTED IN THE ATTACHED SCHEDULE A:

PLEASE TAKE NOTICE that commencing on July 14, 2003 and concluding in the early morning hours of July 15, 2003 (the "Petition Date") each of the debtor entities listed in the annexed Schedule A (collectively, the "Debtors") had commenced cases under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"). Section 362(a) of the Bankruptcy Code operates as a stay of any act to obtain possession of property of the Debtors' estates or of property from the Debtors' estates or to exercise control over property of the Debtors' estates.

PLEASE TAKE FURTHER NOTICE that on July __, 2003, the United States Bankruptcy Court for the Northern District of Texas (the "Bankruptcy Court") having

jurisdiction over these chapter 11 cases entered a final order (i) finding that the Debtors' net operating loss ("NOL") carryforwards are property of the Debtors' estates and are protected by section 362(a) of the Bankruptcy Code; (ii) finding that certain notification and sanctions procedures are necessary with respect to the sale, transfer or exchange or certain claims against and interests in the Debtors in order for the Debtors to preserve and utilize their NOL carryforwards for U.S. federal income tax purposes, and (iii) approving the procedures set forth below in order to preserve the Debtors' NOL carryforwards pursuant to sections 105, 362(a) and 541 of the Bankruptcy Code (the "Order"). **Any sale or other transfer in violation of the procedures set forth below (a "Prohibited Transaction") may subject you to monetary sanctions in an amount necessary to remedy the violation of the Court's order and the Debtors may request that the Bankruptcy Court enter an order rendering any Prohibited Transaction null and void as an act in violation of the automatic stay under sections 362 and 105(a) of the Bankruptcy Code.**

PLEASE TAKE FURTHER NOTICE THAT any person or entity within the meaning of Section 382 ("Entity") that proposes to either (a) sell, transfer, exchange, or otherwise hypothecate its ownership¹ of Specified Claims, or (b) purchase, acquire or otherwise obtain ownership of Specified Claims resulting in an Entity owning an aggregate amount of Specified Claims that equals or exceeds \$250 million (including principal and accrued interest as of the Petition Date and that Entity's prior ownership of Specified Claims) **must**, at least ten (10) days before any such transaction (the "Waiting Period"), file with the Bankruptcy Court and serve on the Debtors and their attorneys a notice in the form attached hereto as Exhibit __ (the "Proposed Transaction Notice").

For purposes of this Notice, "Specified Claims" shall mean general unsecured claims, including claims incurred in the ordinary course of business, against the Debtors (including all debt securities issued by Mirant or its debtor subsidiaries), and all preferred securities issued by Mirant (which are treated for federal income tax purposes as indebtedness of the Debtors)

PLEASE TAKE FURTHER NOTICE THAT any Entity (i) who owns less than 4.75% of any class of Specified Shares who proposes to purchase, acquire, or otherwise obtain ownership of an amount of any class of Specified Shares which, when added to such Entity's total ownership of such class of Specified Shares, if any, equals or exceeds 4.75% of such class of Specified Shares, or (ii) in the case of an Entity who owns at least 4.75% of any class of Specified Shares who proposes to purchase, acquire, or otherwise obtain ownership of any additional Specified Shares, must, at least ten (10) days before any such transaction, file with

¹ "Ownership" shall be determined in accordance with applicable rules under Section 382, and thus, shall include, but not limited to, direct and indirect ownership (e.g., a holding company would be considered to beneficially own all shares owned or acquired by its subsidiaries and Entities would be considered to beneficially own a ratable share of all interests owned by a pass-through entity), ownership by members of such person's family and persons acting in concert, and in certain cases, the creation or issuance of an option (in any form). Any variation of the term "ownerships" (e.g., own) shall have the same meaning.

the Bankruptcy Court and serve on the Debtors and their attorneys the Proposed Transaction Notice.

For purposes of this Notice, “Specified Shares” means each class of common stock of Mirant Corporation.

PLEASE TAKE FURTHER NOTICE THAT the Debtors shall have ten (10) days after receipt of a Proposed Transaction Notice to obtain injunctive relief prohibiting the transaction. If no order enjoining the transfer is entered within such ten (10) day period, then such transaction may proceed solely as set forth in the notice. Further transactions within the scope of this paragraph must be the subject of additional notices as set forth herein with an additional ten (10) day waiting period. If the Debtors voluntarily advise such Entity in writing prior to the 10th day that they do not object, the Entity may proceed with the transaction.

PLEASE TAKE FURTHER NOTICE THAT each Entity that owns at least \$250 million (including principal and accrued interest as of the Petition Date) of Specified Claims, must, by no later than [_____], file with the Court and serve on the Debtors and their attorneys a notice containing the ownership information substantially in the form attached hereto as Exhibit ___.

FAILURE TO FOLLOW THE PROCEDURES SET FORTH IN THIS NOTICE WILL CONSTITUTE A VIOLATION OF THE AUTOMATIC STAY PRESCRIBED BY SECTION 362 OF THE BANKRUPTCY CODE.

ANY PROHIBITED SALE, TRADE, OR OTHER TRANSFER OF THE SPECIFIED SHARES OR SPECIFIED CLAIMS IN VIOLATION OF THE EMERGENCY, INTERIM, OR FINAL ORDER MAY BE PUNISHED BY CONTEMPT OR OTHER SANCTION IMPOSED BY THE BANKRUPTCY COURT, INCLUDING MONETARY SANCTIONS OR THE REVERSAL OF THE NON-COMPLAINT TRANSACTION. FURTHERMORE, FAILURE TO FOLLOW THE NOTIFICATION PROCEDURES SET FORTH IN THE ORDER MAY BE PUNISHED BY CONTEMPT OR OTHER SANCTIONS IMPOSED BY THE BANKRUPTCY COURT.

PLEASE TAKE FURTHER NOTICE that the requirements set forth in this Notice are in addition to the requirements of Rule 3001(e) of the Federal Rules of Bankruptcy Procedure and applicable securities, corporate, and other laws and do not excuse compliance therewith.

Schedule 1

	Entity Name
1.	Hudson Valley Gas Corporation
2.	Mint Farm Generation, LLC
3.	Mirant Americas Development Capital, LLC
4.	Mirant Americas Development, Inc.
5.	Mirant Americas Energy Marketing Investments, Inc.
6.	Mirant Americas Energy Marketing, LP
7.	Mirant Americas Gas Marketing I, LLC
8.	Mirant Americas Gas Marketing II, LLC
9.	Mirant Americas Gas Marketing III, LLC
10.	Mirant Americas Gas Marketing IV, LLC
11.	Mirant Americas Gas Marketing IX, LLC
12.	Mirant Americas Gas Marketing V, LLC
13.	Mirant Americas Gas Marketing VI, LLC
14.	Mirant Americas Gas Marketing VII, LLC
15.	Mirant Americas Gas Marketing VIII, LLC
16.	Mirant Americas Gas Marketing X, LLC
17.	Mirant Americas Gas Marketing XI, LLC
18.	Mirant Americas Gas Marketing XII, LLC
19.	Mirant Americas Gas Marketing XIII, LLC
20.	Mirant Americas Gas Marketing XIV, LLC
21.	Mirant Americas Gas Marketing XV, LLC
22.	Mirant Americas Generation, LLC
23.	Mirant Americas Procurement, Inc.
24.	Mirant Americas Production Company
25.	Mirant Americas Retail Energy Marketing, LP
26.	Mirant Americas, Inc.
27.	Mirant Bowline, LLC
28.	Mirant California Investments, Inc.
29.	Mirant California, LLC
30.	Mirant Canal, LLC
31.	Mirant Capital Management, LLC
32.	Mirant Capital, Inc.
33.	Mirant Central Texas, LP
34.	Mirant Chalk Point Development, LLC
35.	Mirant Chalk Point, LLC

	Entity Name
36.	Mirant Corporation
37.	Mirant D.C. O&M, LLC
38.	Mirant Danville, LLC
39.	Mirant Delta, LLC
40.	Mirant Dickerson Development, L.L.C.
41.	Mirant Fund 2001, LLC
42.	Mirant Gastonia, LLC
43.	Mirant Intellectual Asset Management and Marketing, LLC
44.	Mirant Kendall, LLC
45.	Mirant Las Vegas, LLC
46.	Mirant Lovett, LLC
47.	Mirant MD Ash Management, LLC
48.	Mirant Michigan Investments, Inc.
49.	Mirant Mid-Atlantic Services, LLC
50.	Mirant Mid-Atlantic, LLC
51.	Mirant New England, Inc.
52.	Mirant New York, Inc.
53.	Mirant NY-Gen, LLC
54.	Mirant Parker, LLC
55.	Mirant Peaker, LLC
56.	Mirant Piney Point, LLC
57.	Mirant Portage County, LLC
58.	Mirant Potomac River, LLC
59.	Mirant Potrero, LLC
60.	Mirant Services, LLC
61.	Mirant Special Procurement, Inc.
62.	Mirant Sugar Creek Holdings, Inc.
63.	Mirant Sugar Creek Ventures, Inc.
64.	Mirant Sugar Creek, LLC
65.	Mirant Texas Investments, Inc.
66.	Mirant Texas Management, Inc.
67.	Mirant Texas, LP
68.	Mirant Wichita Falls Investments, Inc.
69.	Mirant Wichita Falls Management, Inc.
70.	Mirant Wichita Falls, LP
71.	Mirant Wyandotte, LLC

	Entity Name
72.	Mirant Zeeland, LLC
73.	MLW Development, LLC
74.	Shady Hills Power Company, LLC
75.	West Georgia Generating Company, LLC

EXHIBIT E

Thomas E Lauria
 State Bar No. 11998025
 WHITE & CASE LLP
 Wachovia Financial Center
 200 South Biscayne Blvd.
 Miami, FL 33131
 Telephone: (305) 371-2700
 Facsimile: (305) 358-5744

Robin Phelan
 State Bar No. 15903000
 Judith Elkin
 State Bar No. 06522200
 HAYNES AND BOONE, LLP
 901 Main Street
 Suite 3100
 Dallas, TX 75202
 Telephone: (214) 651-5000
 Facsimile: (214) 651-5940

PROPOSED ATTORNEYS FOR THE DEBTORS AND DEBTORS-IN-POSSESSION
 IN THE UNITED STATES BANKRUPTCY COURT
 FOR THE NORTHERN DISTRICT OF TEXAS
 FORT WORTH DIVISION

In re	)		)	Chapter 11 Case
MIRANT CORPORATION, <u>et al.</u>,	)		)	Case No. 03-46590 (DML)
Debtors.	)		)	Jointly Administered
	)		)	Hearing Date and Time: To Be Set

**NOTICE OF INTENT TO PURCHASE, ACQUIRE, OTHERWISE
 ACCUMULATE, SELL, TRADE, OR OTHERWISE TRANSFER
SPECIFIED CLAIMS AGAINST THE DEBTORS' ESTATES**

PLEASE TAKE NOTICE that [Acquirer] intends to acquire \$[_____] of Specified Claims (the "Proposed Transaction"). Specifically, [Acquirer] desires to acquire from [Transferor] \$_____ of the following Specified Claims:

<u>Debtor</u>	<u>Description of Specified Claim</u>	<u>Amount of Specified Claim</u>

PLEASE TAKE FURTHER NOTICE that [Acquirer] owns, directly or indirectly, \$ _____ of the following Specified Claims:

<u>Debtor</u>	<u>Description of Specified Claim</u>	<u>Amount of Specified Claim</u>	<u>Date Specified Claim Acquired</u>

PLEASE TAKE FURTHER NOTICE THAT after the Proposed Transaction, [Acquirer] will own \$ _____ of Specified Claims.

PLEASE TAKE FURTHER NOTICE that [Transferor] owns, directly or indirectly, \$ _____ of Specified Claims. After the Proposed Transaction, [Transferor] will own \$ _____ of Specified Claims.

PLEASE TAKE FURTHER NOTICE that this Notice is being filed with the Bankruptcy Court and served upon (i) Mirant Corporation, 1155 Perimeter Center West, Atlanta, Georgia 30338, Attn: Chief Financial Officer, (ii) White & Case LLP, 200 South Biscayne Blvd., Miami, Florida 33131, Facsimile No. 305-358-5744, Attn: Robert P. Sweeter, Esq., pursuant to that certain Order, emergency, interim or final, as the case may be, pursuant to 11 U.S.C. §§ 105(a), 362 and 541 of title 11 of the United States Code establishing procedures for (i) providing advance notice of certain transactions involving claims against and equity interests in Mirant, and (ii) the imposition of sanctions for non-compliance (the “Notification Procedures Order”).

PLEASE TAKE FURTHER NOTICE that the Debtors shall have ten (10) days from receipt of this Notice to object to the transaction(s) described herein and obtain injunctive relief with respect thereto. If the Debtors file an objection and obtain such injunctive relief, then the Bankruptcy Court shall resolve the objection. If the Acquirer and Transferor consummate the transaction prior to the Bankruptcy Court resolving the objection (or in contradiction to any order entered by the Bankruptcy Court enjoining the transaction) Debtors may seek sanctions against the Acquirer and Transferor in accordance with the Notification Procedures Order which sanctions may include monetary sanctions, or the reversal of the transaction that fails to comply with the Notification Procedures Order.

PLEASE TAKE FURTHER NOTICE that any further transactions contemplated by [Acquirer/Transferor] that may result in [Acquirer/Transferor] acquiring or transferring additional Specified Claims will require an additional notice with the Bankruptcy Court to be served in the same manner as this Notice.

For purposes of this Notice, “ownership” shall be determined in accordance with applicable rules under Section 382, and thus, shall include, but not limited to, direct and indirect ownership (e.g., a holding company would be considered to beneficially own all shares owned or acquired by its subsidiaries and Entities would be considered to beneficially own a ratable share of all interests owned by a pass-through entity), ownership by members of such person’s family and persons acting in concert, and in certain cases, the creation or issuance of an option (in any form). Any variation of the term “ownerships” (e.g., own) shall have the same meaning.

For purposes of this Notice, Specified Claims shall mean general unsecured claims, including claims incurred in the ordinary course of business, against the Debtors (including all debt securities issued by Mirant or its debtor subsidiaries), and all preferred securities issued by Mirant (which are treated for federal income tax purposes as indebtedness of the Debtors).

This Notice is given in addition to, and not as a substitute for, any requisite notice under Rule 3001(e) of the Federal Rules of Bankruptcy Procedure.

Respectfully submitted.

[Name of Acquirer]

[Address of Acquirer]

[Telephone of Acquirer]

[Facsimile of Acquirer]

Dated: [city, state]

_____ 200__

[Name of Transferor]

[Address of Transferor]

[Telephone of Transferor]

[Facsimile of Transferor]

Dated: [city, state]

_____ 200__

EXHIBIT F

Thomas E Lauria
State Bar No. 11998025
WHITE & CASE LLP
Wachovia Financial Center
200 South Biscayne Blvd.
Miami, FL 33131
Telephone: (305) 371-2700
Facsimile: (305) 358-5744

Robin Phelan
State Bar No. 15903000
Judith Elkin
State Bar No. 06522200
HAYNES AND BOONE, LLP
901 Main Street
Suite 3100
Dallas, TX 75202
Telephone: (214) 651-5000
Facsimile: (214) 651-5940

PROPOSED ATTORNEYS FOR THE DEBTORS AND DEBTORS-IN-POSSESSION

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

In re	)	Chapter 11 Case
MIRANT CORPORATION, <u>et al.</u>,	)	Case No. 03-46590 (DML)
Debtors.	)	Jointly Administered
	)	Hearing Date and Time: To Be Set

**NOTICE OF OWNERSHIP OF AT LEAST
\$250 MILLION OF SPECIFIED CLAIMS**

PLEASE TAKE NOTICE that (Name of Claimholder] Owns greater than \$250 million of Specified Claims. As of [date], the [Name of Claimholder] Owns the following Specified Claims:

<u>Debtor</u>	<u>Description of Specified Claim</u>	<u>Amount of Specified Claim</u>	<u>Date Specified Claim Acquired</u>

PLEASE TAKE FURTHER NOTICE that this Notice is being filed with the Bankruptcy Court and served upon (i) Mirant Corporation, 1155 Perimeter Center West, Atlanta, Georgia 30338, Attn: Chief Financial Officer, (ii) White & Case LLP, 200 South Biscayne Blvd., Miami, Florida 33131, Facsimile No. 305-358-5744, Attn: Robert P. Sweeter, Esq., pursuant to that certain emergency, interim or final order pursuant to 11 U.S.C. §§ 105(a), 362 and 541 of

title 11 of the United States Code establishing procedures for (i) providing advance notice of certain transactions involving claims against and equity interests in Mirant Corporation, and (ii) the imposition of sanctions for non-compliance.

For purposes of this Notice, "ownership" shall be determined in accordance with applicable rules under Section 382, and thus, shall include, but not limited to, direct and indirect ownership (e.g., a holding company would be considered to beneficially own all shares owned or acquired by its subsidiaries and Entities would be considered to beneficially own a ratable share of all interests owned by a pass-through entity), ownership by members of such person's family and persons acting in concert, and in certain cases, the creation or issuance of an option (in any form). Any variation of the term "ownerships" (e.g., own) shall have the same meaning.

For purposes of this Notice, Specified Claims shall mean general unsecured claims, including claims incurred in the ordinary course of business, against the Debtors (including all debt securities issued by Mirant Corporation or its debtor subsidiaries), and all preferred securities issued by Mirant Corporation (which are treated for federal income tax purposes as indebtedness of the Debtors).

This Notice is given in addition to, and not as a substitute for, any requisite notice under Rule 3001(e) of the Federal Rules of Bankruptcy Procedure.

Respectfully submitted,

[Name of Claimholder]

[Address of Claimholder] [Telephone of Claimholder] [Facsimile of Claimholder]

Dated: [city, state]

_____ 200__

EXHIBIT G

Thomas E Lauria
State Bar No. 11998025
WHITE & CASE LLP
Wachovia Financial Center
200 South Biscayne Blvd.
Miami, FL 33131
Telephone: (305) 371-2700
Facsimile: (305) 358-5744

Robin Phelan
State Bar No. 15903000
Judith Elkin
State Bar No. 06522200
HAYNES AND BOONE, LLP
901 Main Street
Suite 3100
Dallas, TX 75202
Telephone: (214) 651-5000
Facsimile: (214) 651-5940

PROPOSED ATTORNEYS FOR THE DEBTORS AND DEBTORS-IN-POSSESSION

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

_____)	
In re	)	Chapter 11 Case
)	
MIRANT CORPORATION, <u>et al.</u>,	)	Case No. 03-46590 (DML)
	)	Jointly Administered
Debtors.)	
_____	)	Hearing Date and Time: To Be Set

**NOTICE OF NON-COMPLIANCE WITH ORDER ESTABLISHING
(i) NOTIFICATION PROCEDURES AND (ii) ESTABLISHING PROCEDURES
TO IMPOSE SANCTIONS FOR VIOLATING THE COURT APPROVED
NOTIFICATION PROCEDURES REGARDING TRANSFERS OF CLAIMS
AGAINST AND INTERESTS IN THE DEBTORS**

To: _____

PLEASE TAKE NOTICE that this Notice is served upon [NAME OF NON-COMPLYING PERSON OR ENTITY] pursuant to paragraph ___ of the order (the "Order") entered _____, by the United States Bankruptcy Court for the Northern District of Texas in these chapter 11 cases on the motion filed by the Debtors herein pursuant to 11 U.S.C. §§ 105(a), 362 and 541 of title 11 of the United States Code (i) establishing notification procedures that must be satisfied before certain sales or transfers occur, and (ii) establishing procedures to impose sanctions against parties that fail to comply with court established notification procedures.

Unless otherwise defined herein, capitalized terms used herein have the same meaning ascribed to them in the Order.

You are in violation of the Order for the following reasons: [INSERT VIOLATIONS OF THE ORDER]

The Debtors hereby notify you that unless you act in accordance herewith and the Order, the Bankruptcy Court will enter an order that provides for the following sanctions against you: [INSERT REQUESTED SANCTIONS]

The Order requires that within five (5) days after service of this Notice, you shall file with the Court and serve upon Debtors' counsel at the address above a response (the "Response") to this Notice. You are further required to obtain a hearing date from the Bankruptcy Court with respect to this Notice so that a hearing regarding this Notice and your Response is heard not later than ten (10) days after service of this Notice. The hearing date and time obtained by you shall be set forth in the Response. If you timely serve and file a Response, the Court may hear the matter within ten (10) days after service of this Notice. If you fail to timely file and serve a Response to this Notice, then the Court may enter an order granting the sanctions requested herein without further proceedings, which may include monetary sanctions or the reversal of the non-complying transaction.

Dated: Fort Worth, Texas
_____, 2003

HAYNES AND BOONE, LLP
901 Main Street
Suite 3100
Dallas, TX 75202
(214) 651-5000

By _____

Robin Phelan
State Bar No. 15903000
Judith Elkin
State Bar No. 06522200
Ian Peck
State Bar No. 24013306

Thomas E Lauria
State Bar No. 11998025
Craig H. Averch
State Bar No. 01451020
WHITE & CASE LLP
Wachovia Financial Center
200 South Biscayne Blvd.

Miami, Florida 33131
(305) 371-2700

EXHIBIT H

Thomas E Lauria
State Bar No. 11998025
WHITE & CASE LLP
Wachovia Financial Center
200 South Biscayne Blvd.
Miami, FL 33131
Telephone: (305) 371-2700
Facsimile: (305) 358-5744

Robin Phelan
State Bar No. 15903000
Judith Elkin
State Bar No. 06522200
HAYNES AND BOONE, LLP
901 Main Street
Suite 3100
Dallas, TX 75202
Telephone: (214) 651-5000
Facsimile: (214) 651-5940

PROPOSED ATTORNEYS FOR THE DEBTORS AND DEBTORS-IN-POSSESSION

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

)				
In re	)				Chapter 11 Case
)				
MIRANT CORPORATION, <u>et al.</u>,	)				Case No. 03-46590(DML)11
	)				Jointly Administered
Debtors.)				
)				

NOTICE OF ENTRY OF INTERIM ORDER PURSUANT TO SECTIONS 105(a), 362 AND 541 OF THE BANKRUPTCY CODE FOR INTERIM AND FINAL ORDER ESTABLISHING PROCEDURES FOR (I) REQUIRING NOTICE IN ADVANCE OF CERTAIN TRANSACTIONS REGARDING CLAIMS AGAINST AND EQUITY INTERESTS IN MIRANT CORPORATION, AND (II) THE IMPOSITION OF SANCTIONS FOR VIOLATING THE NOTIFICATION PROCEDURES

PLEASE TAKE NOTICE that on July __, 2003, the United States Bankruptcy Court for the Northern District of Texas Fort Worth Division (Lynn, D.) entered the attached Interim Order Pursuant to Sections 105(a), 362 and 541 of the Bankruptcy Code (i) Establishing Procedures for (i) Providing Advance Notice of Certain Transactions Involving Claims Against and Equity Interests in Mirant Corporation, and (ii) the Imposition of Sanctions for Non-compliance.

A final hearing on the Interim Order will be held on July __, 2003 at __:__ __.,
before the Hon. Dennis Michael Lynn, at the United States Bankruptcy Court, Northern District
of Texas, Eldon B. Mahon U.S. Courthouse, 501 W. Tenth Street, Fort Worth, TX 76102-3643.

Dated: Fort Worth, Texas
July __, 2003

HAYNES AND BOONE, LLP
901 Main Street
Suite 3100
Dallas, TX 75202
(214) 651-5000

By _____

Robin Phelan
State Bar No. 15903000
Judith Elkin
State Bar No. 06522200
Ian Peck
State Bar No. 24013306

-and-

Thomas E Lauria
State Bar No. 11998025
Craig H. Averch
State Bar No. 01451020
WHITE & CASE LLP
Wachovia Financial Center
200 South Biscayne Blvd.
Miami, Florida 33131
(305) 371-2700

PROPOSED ATTORNEYS FOR THE DEBTORS
AND DEBTORS-IN-POSSESSION